
CHAPTER 1

Wyoming Workers' Compensation

Workers' Compensation Programs Benefit Injured Workers and Employers

Injured workers receive medical and lost wage benefits, regardless of fault.

Workers' compensation programs provide benefits to workers who are injured on the job or who contract work-related illnesses. Regardless of fault, injured workers receive predictable compensation and coverage of costs associated with their injuries. Benefits include cash payments designed to partially replace lost wages; they also cover the costs of medical care and in the case of fatality, provide death and burial payments to dependents.

Employers receive immunity from legal action in exchange for paying annual premiums.

In exchange for paying premiums that fund these benefits, employers receive immunity from lawsuits that may result from worker injuries. Except under very limited circumstances, for employers and employees covered by workers' compensation, program benefits are the exclusive remedy for employees who are injured at work. This means a mutual renunciation of common law rights and defenses by both employers and employees. In order for Wyoming to establish a workers' compensation program, the citizens of the state had to approve amending the Constitution, Article 10, Section 4, which originally prohibited laws limiting damages in personal injury cases (see Appendix A).

Wyoming's Workers' Compensation program began in 1915.

The Wyoming Worker's Compensation Act (W.S. 27-14-101 through 27-14-805; Also see Appendix B) was first enacted in 1915, although the Act has been modified often since then. The most recent comprehensive revisions to the Act occurred in 1994. Then, the Legislature stated its intent for the Workers' Compensation Division, requiring the law it administers to "be interpreted to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Worker's Compensation Act." (W.S. 27-14-101(b)).

Wyoming Workers' Compensation Differs From Other States

States design their own programs as there is no federal component.

All states have workers' compensation programs, although there is considerable variation in their structure and operation. The federal government does not have jurisdiction over state programs. Wyoming's Workers' Compensation program differs from those in most other states in two key ways.

First, in most states employers can purchase insurance from private carriers or can self-insure to meet the requirements of state law. Wyoming is one of a group of five states termed "monopolistic," meaning employers purchase coverage from the state fund in order to obtain immunity from lawsuit.¹

Wyoming is one of five monopolistic state programs.

Second, most other states require all employers to carry workers' compensation coverage, while Wyoming only requires specified extrahazardous industries to be insured. Employers not designated as extrahazardous may elect coverage under the state program. Many Wyoming employers select this optional coverage to obtain the benefit of immunity.

Department of Employment Administers Wyoming Workers' Compensation

The Workers' Safety and Compensation Division (Division, or WSCD) within the Department of Employment (Department, or DOE) administers the program. Before government reorganization in 1989, the State Treasurer administered the workers' compensation program through Clerks of District Court located throughout the state.

WSCD is organized according to three major administrative functions: Workers' Compensation claims, the Medical Commission, and the Occupational Safety and Health

¹ Other monopolistic states are: North Dakota, Ohio, Washington, and West Virginia. Three of these states allow employers to self insure under specific circumstances.

This study's focus is on claims processing.

Administration (OSHA). This study focuses on claims processing, which involves the first two of these functions. Claims is the Division's largest function and as its name implies, processes claims filed for Workers' Compensation payment. The Medical Commission serves as one of two administrative hearing bodies that adjudicate Workers' Compensation disputes. The second hearing body, the Office of Administrative Hearings, is organizationally independent from the Division.

WSCD claims processing has a staff of 108 organized into six operational units: claims, information technology, case support services, administrative services, internal audit and compliance, and training. The claims unit is further divided into five districts, with seven field offices.

Workers' Compensation Covers Most Wyoming Employers and Employees

An estimated 83 % of Wyoming's workforce is covered by Workers' Compensation.

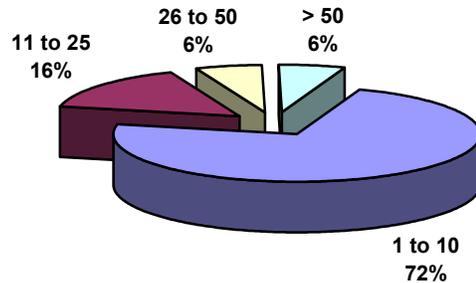
An average of 15,242 employers participated in WSCD in FY '02, covering 267,596 employees or 231,473 individuals (some hold several jobs and are covered by more than one employer). The Department does not track statistics necessary to calculate what proportion of total Wyoming employers and employees are covered by Workers' Compensation. A national study of workers' compensation programs in 2002 estimated that 83 percent of Wyoming's workforce was covered by WSCD.

Most employers participating in WSCD are small, with ten or fewer employees. Figure 1.1 shows the distribution of employers with Workers' Compensation coverage by their numbers of employees.

Figure 1.1

**Distribution of WSCD Participating Employers
By Size of Workforce: FY '02**

**72 % of employers
participating in
WSCD have fewer
than 11 employees.**



Source: LSO analysis of WSCD data

The majority of Wyoming employers participating in Workers' Compensation are required by law to do so

**33% of participating
employers opt to
enroll in the
program.**

WSCD has three categories of coverage: mandatory, optional and other. Mandatory and optional industries are specified in W.S. 27-14-108; 51 percent of employers paying for state Workers' Compensation coverage are required by statute to have it because they are classified as extrahazardous. Another 33 percent of participating employers, those in the optional category, elect to have the coverage. The third category of coverage includes 16 percent of employers who may have some employees whose coverage is mandatory, some whose coverage is optional, and some who are specifically excluded from coverage.

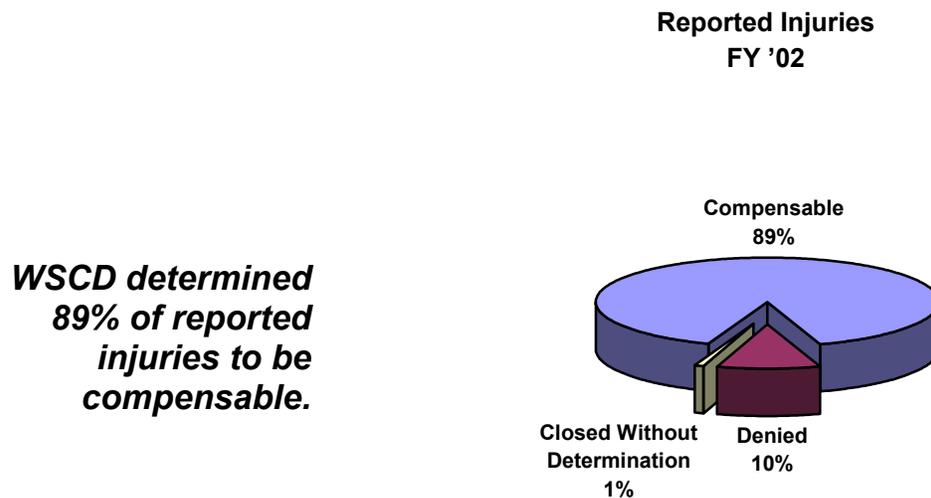
Injuries Reported Each Year

WSCD reports the number of injuries that covered workers or employers report each year as being work related. Some of these are acute injuries resulting from workplace accidents, and others are long-term injuries and diseases that have developed over time. Initial reports of these conditions are included in WSCD injury report counts.

Injured workers cannot apply for benefits before their injury is determined compensable.

Once WSCD receives reports of injuries or deaths, claims analysts must determine whether or not they are compensable. The Worker's Compensation Act (W.S. 27-14-102 (a) (xi)) defines "injury" as "any harmful change in the human organism other than normal aging" that arises "out of and in the course of employment while at work in or about the premises occupied, used or controlled by the employer." WSCD must determine an injury compensable in order for a worker to apply for any medical or indemnity benefits associated with it. Division information for FY '01 and FY '02 shows that in both years, WSCD determined approximately 89 percent of the reported injuries as compensable.

Figure 1.2



Source: LSO analysis of WSCD data

Workers' Compensation Benefits

Injured workers may be eligible for several different benefits.

Wyoming workers with compensable injuries may be eligible for different types of benefits, depending on the nature and severity of their injuries: medical, indemnity or lost wage, vocational rehabilitation, and death benefits.

In FY '02, the system processed 15,400 compensable injuries and 250,000 claims for medical benefits.

Workers' compensation offers medical benefits

Medical benefits cover medical care reasonably required to cure or relieve the effects of a workplace injury, with no deductible or co-payments by the injured worker. These benefits are often short-term, but Wyoming's Act provides that they can extend throughout the injured worker's lifetime, if warranted.

Every request for a benefit is considered a claim, and every injury may result in multiple claims for medical benefits. For example, in FY '02 there were more than 250,000 claims for medical benefits, but only some 15,400 compensable injuries.

WSCD makes medical payments according to a variety of guidelines and fee schedules which are established in rules. The payments go directly to the health care providers that deliver services, not to the injured workers. As illustrated in Figure 1.3, WSCD paid in full more than 90 percent of medical bills submitted in FY '01 and FY '02.

**Figure 1.3
Number and Percentage of Paid and Unpaid Medical Bills
FY '01 and '02**

WSCD approved and paid nearly 91% of all medical bills.

Medical Claims	FY '01	FY '02	Percentage	
			FY '01	FY '02
Total Claims	239,997	253,619		
Paid in Full	217,428	230,467	90.6%	90.9%
Denied	22,568	23,132	9.4%	9.1%
Denied in Full	15,536	14,848	6.5%	5.9%
Denied in Part	7,032	8,284	2.9%	3.3%
Other	1	20	<1%	<1%

Source: LSO analysis of WSCD data, rounded

Most injuries require only medical benefits and not lost wage payments.

Most of the injuries WSCD determines compensable are termed "medical-only" because they require only medical benefits. This means most workers reporting compensable injuries do not make claims for lost wage payments. According to WSCD data, in

both FY '01 and FY '02, approximately 78 percent of compensable injuries were medical-only, leaving just 22 percent requiring both medical and indemnity benefits.

Workers' Compensation also offers lost wage benefits

Benefits are intended to offset the loss of income caused by a workplace injury.

Workers' Compensation also offers benefits to partially offset the loss of income that some injured workers experience. These are lost wage or indemnity benefits, based upon the degree of impairment or disability workers suffer. Statute and WSCD classify these benefits, commonly referred to by their abbreviations, as follows: temporary total disability (TTD), permanent partial impairment (PPI), permanent partial disability (PPD), and permanent total disability (PTD). TTD is the most commonly applied-for lost wage benefit. All have statutorily-prescribed eligibility and duration criteria as well as benefit levels. An injured worker must apply for each indemnity benefit separately.

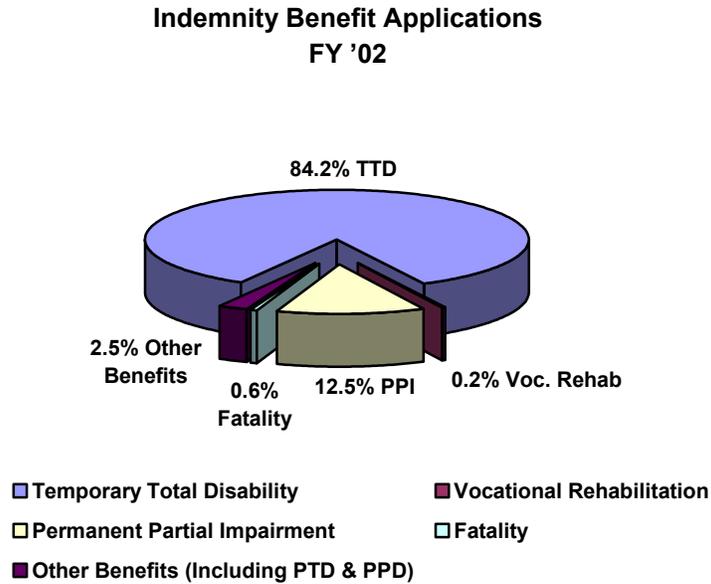
Death and burial benefits are also available in case of a workplace fatality.

In addition to the lost wage benefit categories, vocational rehabilitation benefits may be available to cover the cost of education, retraining and living expenses. These benefits can help an injured worker return to the workforce, but they are only available to eligible individuals who waive PPD benefits. In case of death due to work-related causes, death and burial benefits are available to the surviving spouse, children, or dependent parents.

Figure 1.4 illustrates the type and number of indemnity benefit applications in FY '02. TTD claims account for approximately 84 percent of all indemnity benefit applications in FY '02; information from FY '01 is comparable.

Figure 1.4

84% of all lost wage benefits applied for are Temporary Total Disability (TTD).



Source: LSO analysis of WSCD data

Contested Cases

The vast majority of Workers' Compensation claims are processed quickly and without dispute or litigation. However, employees, employers, and health care providers are given the right to request a hearing when disagreement exists about a case or claim. The Workers' Compensation Fund covers attorney costs for injured workers in contested cases. When disputes arise, WSCD claims analysts can refer parties to several different venues for resolution, depending on the nature of the dispute and the amount of money at issue.

Participants have a right to dispute any decision made by WSCD.

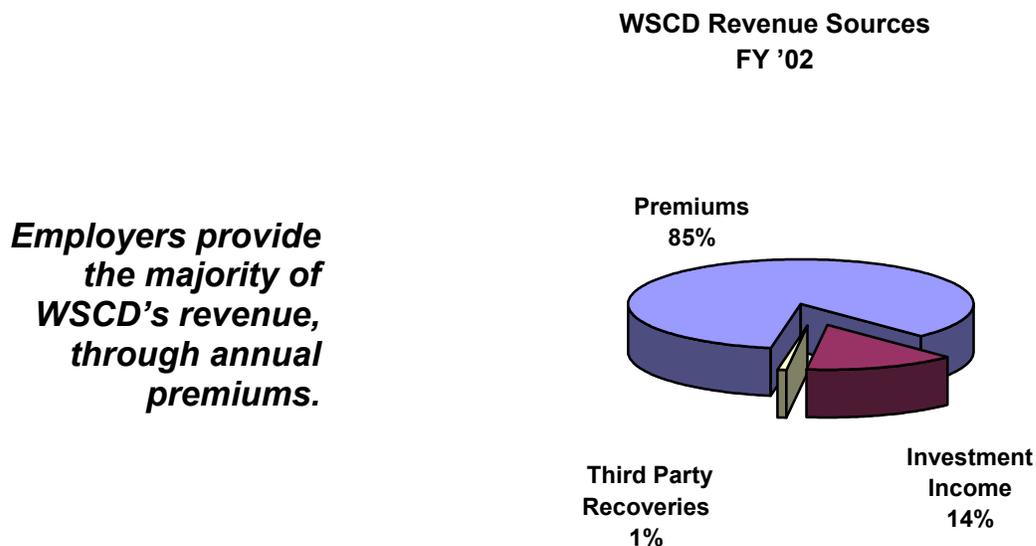
- The Internal Hearings Unit hears cases concerning late filing.
- The Small Claims Court hears cases where the disputed amount is less than two thousand dollars and the issue is not one of compensability of an injury.
- The Medical Commission hears cases related to medical claims or treatments and physical impairment.

- The Office of Administrative Hearings (OAH) hears cases involving compensability and denial or modification of compensation benefits.
- With claims supervisor, assistant administrator, and administrator approval, the Division may settle cases.

Employer Premiums Provide Most Workers' Compensation Revenues

According to W.S. 27-14-201(a), the Workers' Compensation program will be neither more nor less than self-supporting. The primary source of program revenues is employer premiums. Additional funds come from Workers' Compensation investment income and third party recoveries, as shown in Figure 1.5.

Figure 1.5



Source: LSO analysis of WSCD and Employment Tax Division data

To set premiums, the Department's Employment Tax Division groups employers into industry classifications. Pursuant to W.S. 27-14-108 (a), effective January 2003, WSCD replaced the Bureau of Labors' Standard Industry Classification system (SIC) with the North American Industry Classification System (NAICS) as the basis for these groupings.

Employers pay premiums based on their industry and claims history.

These classifications group employers with similar operations to set base rates. Base rates for each industrial classification are adjusted annually to reflect the current and estimated future benefit costs for injuries incurred in that industry classification each year. Base rates for 2003, stated as a percentage of payroll, range from 0.22 percent (or 22 cents per \$100 of payroll) for banking-related industries, to 12.24 percent (or \$12.24 per \$100) for the logging industry.

Then, within each industry classification, individual employers' premiums are modified according to their own claims history, or their claims "experience." The base rate modified by the individual employers experience rating determines the premium that the employer pays into the Workers' Compensation Fund (Fund). Statute and rules specify caps on discounts and penalties that WSCD can assess employers based on their payroll size.

Premiums fund present and estimated future costs.

Program funding situation has improved over time

In contrast to earlier decades, Wyoming Workers' Compensation does not receive any support from other state funds. Premiums paid by participating employers, plus interest earnings, fund the program's present-day costs in addition to estimated future costs for the current year's injuries. Premiums and other reserve amounts accrue interest to be dispersed as future benefits. Prior to 1993, there was no fund balance to invest. Since then, however, investment income has increasingly contributed to program revenues. From FY '99 through '02, it contributed an average of almost 16 percent of annual revenues.

Workers' Compensation fund solvency is statutorily required by 2008.

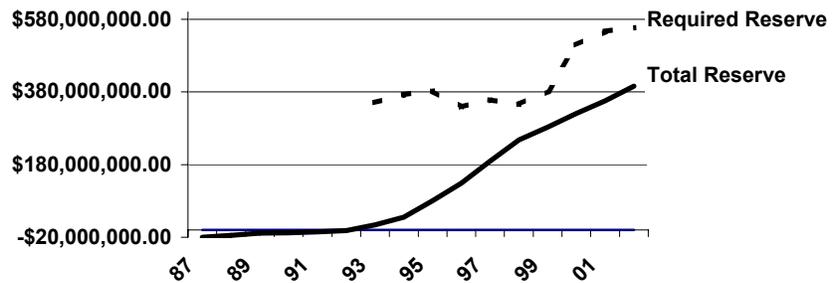
WSCD has an unfunded liability

In the mid-1980's, Wyoming Workers' Compensation was not generating premium revenues to meet its expenses, finally prompting the Governor to call the Legislature into Special Session in 1986. In that session, the Legislature directed the program to fix rates to cover ongoing costs as well as all unfunded liabilities by 2008. By 1987, the program's unfunded liability for future benefits owed was estimated to be \$20,000,000. Since then, WSCD has made progress towards solvency, as Figure 1.6 illustrates (also see Appendix C). At the end of FY '02, the Fund's balance was \$396,192,348, or 71 percent of the estimated \$556,900,000 required reserve.

Figure 1.6

**Required and Total WSCD Reserves
FY '87-'02**

The Division can fund 71% of its current liability.



Source: LSO analysis of WSCD data

WSCD Current Expenditures

84% of the nearly \$115 million FY '02 expenditures were on claims costs.

In FY '02, 84 percent of WSCD total expenditures were spent on claims costs. Indirect costs, including expenditures related to claims processing and hearings, accounted for the remaining 16 percent of expenditures. Figure 1.7 shows expenses and proportion of expenses by category.

Figure 1.7

**WSCD Expenditures
FY '02**

Expense Category	Dollar amount	Percent of total expenditures
Total Costs	\$114,289,881	100
Claims Costs	\$96,152,561	84.1
Indirect Costs	\$18,137,320	15.9

Source: LSO analysis of WSCD data

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